HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.26536 of 1997

Dated 31st day of January, 2007

Between:

Perikala Gangayya
.. Petitioner

And

The District Collector,
West Godavari, Eluru
and three others
.. Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondents in proceeding with the process of grant of pattas in respect of the drainage canal bunds of Rudrayakodu situated in R.S.Nos.5 and 16 of Ajjamuru village, Akividu Manda, West Godavari District, without considering the representation of the petitioner dated 25.9.1997, as illegal and arbitrary.

The brief facts of the case are that the petitioner purchased an extent of Ac.5.01 cents of wet land in R.S.Nos.11 and 12 of Ajjamuru village, Akividu Mandal, West Godavari District, by virtue of a registered sale deed from the legal heirs of late Mohammed Nazir Ahmed Saheb and he has been in possession of it and cultivating it by raising paddy crop and paying the revenue to the government. This land is situated on the eastern side and adjacent to the bunds of Rudrayakodu which is the only drainage canal to all the paddy fields in the locality as well as for an extent of nearly 3,000 acres of Rudrayakodu and these bunds are the only way out for the fields and he has been utilizing it for the purpose of not only ingress and egress but also a thrashing floor and a grazing field. As per the Board Standing Orders, great care should be taken to preserve the margins of canals and streams. In the 3rd week of September 1997, the respondent authorities came to the spot and surveyed the area. When the petitioner questioned it, he was told that the bunds of drainage canal would be assigned to the evicted encroachers of road

margins at Akividu. Immediately he raised objections and got issued a telegraphic notice through his counsel to the 3rd respondent and submitted a representation dated 25.9.1997 requesting him not to permit any person to occupy the bunds of Rudrayakodu. The width of Rudrayakodu Drainage Canal situated in R.S.Nos.5 and 16 of Ajjamuru village is not more than 15 feet and if any assignments are granted and the bunds of drainage canal are permitted to be occupied, such occupations would undoubtedly cause harm to the existence of the bunds which results in obstruction to the free flow of drainage water from the fields and ultimately has a devastating effect on the crop. Hence, he has filed this writ petition.

The learned counsel for the petitioner has contended that according to Section 15(4)(h) of the Andhra Pradesh Boards' Standing Orders, though all lands are at the disposal of the government, the assignment of water-course, porambokes, namely margins of channels, streams, etc. are strictly prohibited and hence, the alleged grant of pattas in respect of drainage canal bunds of Rudrayakodu situated in R.S.Nos.5 and 16 of Ajjamuru village, Akividu Manda, West Godavari District is contrary to the provision of law.

Maybe his contention is true, but having regard to the fact that the petitioner has already submitted representation dated 25.9.1997, the competent authority may consider it and pass appropriate orders keeping in mind the provision of law referred to above.

With the above direction, the writ petition is disposed of. No costs.

_____

31.01.2007
bcj